

Lauren M. Rule (OSB #015174)
Elizabeth H. Potter (OSB #105482)
ADVOCATES FOR THE WEST
3701 SE Milwaukie Ave. Ste. B
Portland, OR 97202
(503) 914-6388
lrule@advocateswest.org
epotter@advocateswest.org

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

**NORTHWEST ENVIRONMENTAL
DEFENSE CENTER, WILDEARTH
GUARDIANS, and NATIVE FISH
SOCIETY,**

Case No. 3:18-cv-00437-JR

Plaintiffs,

**JOINT PROPOSED CASE
MANAGEMENT ORDER**

v.

**U.S. ARMY CORPS OF ENGINEERS
and NATIONAL MARINE
FISHERIES SERVICE,**

Defendants,

and

CITY OF SALEM and MARION COUNTY,

Defendant-Intervenors,

Plaintiffs have informed Defendants and Defendant-Intervenors that they intend to move forward with the litigation by filing a preliminary injunction motion. The parties request the Court approve the preliminary injunction schedule and other terms laid out in this proposed case management order to promote the orderly, efficient, and equitable litigation of this motion.

The parties have agreed to the following schedule:

- Plaintiffs will file their preliminary injunction motion and opening brief on or before November 30, 2018.
- Defendants and Defendant-Intervenors will file their response briefs on or before January 18, 2019.
- Plaintiffs will file their reply brief on or before February 15, 2019.

The parties request a hearing be set as soon after the briefing is concluded as is convenient for the Court.

Plaintiffs request that the Court limit the respective response briefs of Defendant-Intervenors to 17 pages each, or 35 pages if they choose to file a joint brief, and to issues related to their interests in management of the dams on the North Santiam River. Defendant-Intervenors have interests in management of only one of the four key rivers at issue in this case (and just two of the eight dams at issue), so their participation in the preliminary injunction motion should be tailored accordingly. Without any page limits on Defendant-Intervenors, Plaintiffs and the Court may be forced to address more than one hundred pages of briefing in response to Plaintiffs' thirty-five page motion—seventy pages of which would be focused on just one narrow issue in the litigation. Courts routinely hold that page limitations or joint briefs for intervenors are reasonable and promote judicial efficiency, and we request this Court do the same. *See, e.g., Res. Renewal Inst. v. Nat'l Park Serv.*, No. 4:16-00688-SBA, ECF No. 96, at *6 (N.D. Cal. Sept.

2, 2016) (limiting each group of intervenors to a combined brief of 5 pages to oppose a motion for a preliminary injunction); *Center for Biological Diversity et al. v. Kelly et al.*, No. 1:13-cv-00427-EJL-CWD, ECF No. 43, at *4 (D. Idaho July 11, 2014) (ordering intervenors to file joint summary judgment response brief of no more than 24 pages or separate briefs of no more than 8 pages each); *Ellis v. Bradbury*, No. C-13-1266 MMC, 2013 WL 4777201, at *2–3 (N.D. Cal. Sept. 6, 2013) (ordering joint briefing between multiple intervenors). Defendant-Intervenors oppose Plaintiffs’ proposed page limitation because they believe it is unnecessary and at odds with the Court’s prior ruling. Defendants take no position on these limitations.

Intervenors have sent Citizen Suit notice to the Corps on October 29, 2018 and plan to move to amend their answers to incorporate citizen suit claims related to the Detroit Lake portion of the project as soon as the delay period expires if the Corps takes no action.

The parties have deferred conferencing about further case management schedules and issues, including any potential discovery, until after a decision is issued on Plaintiffs’ preliminary injunction motion.

The parties respectfully request the Court approve this joint proposed case management order.

Dated: November 6, 2018

Respectfully submitted,

/s/Lauren M. Rule

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Elizabeth H. Potter (OSB #105482)
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3701 SE Milwaukie Ave, Suite B
Portland, OR 97202
Tel: (503) 914-6388
lrule@advocateswest.org
epotter@advocateswest.org

Attorneys for Plaintiffs

JEAN E. WILLIAMS, Deputy Assistant Attorney General
SETH M. BARSKY, Chief
S. JAY GOVINDAN, Assistant Chief

/s/ Kaitlyn Poirier

KAITLYN POIRIER, Trial Attorney (TN Bar # 034394)
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Ben Franklin Station, P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 307-6623
Facsimile: (202) 305-0275
Email: kaitlyn.poirier@usdoj.gov

Attorneys for Federal Defendants